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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/554,992	05/23/2000	Volker Schellenberger	GC500-2-US	9016

7590

04/04/2002

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EXAMINER

CHAUDHRY, MAHREEN F

ART UNIT	PAPER NUMBER
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1623

DATE MAILED: 04/04/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/554,992

Applicant(s)

SCHELLENBERGER ET AL.

Examiner

Mahreen Chaudhry

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 8 are unclear with regard to the terms "preferred enzyme" and "preferred detergent composition," respectively. The meaning of "preferred" in terms of the enzyme and detergent composition is unclear. It is unclear specifically how the enzyme and detergent composition is "preferred."

Claim 1 is unclear with regard to the preamble, "A method for assaying for a preferred enzyme comprising..." It would appear from the preamble that the presence of the enzyme is determined by the method steps. However, the claim recites the application of an enzyme to the swatch so the presence of the enzyme is known since it is specifically applied. If the claim is directed to a method for assaying enzyme activity, then it is suggested that this be recited in the preamble. If the claim is directed to determination of the effectiveness of an enzyme as compared to other enzymes, then it is suggested that this be recited in the preamble.

Claim 1 is unclear with regard to the specific method by which the enzyme assayed. The claim recites the incubation of a swatch and the enzyme but provides no step directed to assay of the enzyme. It is unclear how the enzyme is assayed since the claim only requires staining a

swatch, applying an enzyme and incubating the enzyme with the swatch. Consider including a step specifically directed to assaying the enzyme on the swatch.

Claim 3 is unclear with regard to the preamble, "A method for assaying for a preferred detergent composition..." It would appear from the preamble that the presence of detergent composition is determined by the method steps. However, the claim recites the application of detergent composition to the swatch so the presence of the detergent composition is already known. If the claim is directed to a method for assaying the activity of the detergent composition, then it is suggested that this be specifically recited in the preamble. If, however, the claim is directed to determination of the effectiveness of the detergent composition relative to other detergent compositions, then it is suggested that this be specifically recited in the preamble.

Claim 3 is unclear with regard to the specific method by which the detergent composition is assayed. The claim recites the incubation of a swatch and then but provides no step directed to assay of the detergent composition. It is unclear how the detergent composition is assayed since the claim only requires staining a swatch, applying an enzyme and incubating the detergent composition with the swatch. Consider including a step specifically directed to assaying the detergent composition on the swatch.

Claim 15 is unclear with regard to the specific method by which the catalytic efficiency of the enzyme is determined. The claim recites measurement of a constituent of the stain but does not recite a step correlating the measurement of the constituent to the catalytic efficiency of the enzyme. Consider specifically reciting a step correlating the measurement of the constituent to catalytic efficiency.

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Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-20 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S.

Patent 5,454,971 issued to Sakai et al. Sakai et al. disclose a method for determining washing efficiency and the effect of lipase addition on washing (Column 18, Lines 1+). Sakai et al. discloses that cloth stained with dirt and soiled with triolein (Column 18, Lines 1-7). Sakai et al. further discloses lipases and proteases were added to detergent and that the stained cloths were added to the washing solution in a washing machine (Column 18, Lines 7-18). Sakai et al. disclose that the amount of triolein on the soiled cloths before and after incubation with the washing solution was determined by extraction of triolein with n-hexane followed by determination of triolein by TLC (Column 18, Lines 19-24). Sakai et al. further disclose that washing efficiency and the effect of lipase addition on washing is determined (Column 18, Lines 24+).

5. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,653,828 issued to Benjamin et al. Benjamin et al. disclose examples in which the stain removing properties of a lipoxidase-containing detergent is determined (Column 9, Lines 54+). Benjamin et al. disclose a swatch is stained using a staining solution comprising gravy, spinach, milk substitute and licorice (Column 11, Lines 26-41). Benjamin et al. disclose that a lipoxidase

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containing detergent was added to the swatch in an automatic washing machine (Column 11, Lines 29+). Benjamin et al. further disclose that the whiteness levels of the swatches are measured using a Color-Difference Meter (Column 11, 48-50). Benjamin et al. additionally exemplify a method for determining the ink stain removal properties by visual comparison (Column 12, Lines 18+).

6. Claims 1-4, 6-10, 12-17, 19-20 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,797,362 issued to Takeuchi et al. Takeuchi et al. discloses a method for determining the detergency of protease enzymes. Takeuchi et al. discloses that detergency was determined by incubating stained cloths with a detergent solution comprising enzymes (Column 19, Lines 58+). Takeuchi et al. disclose that the cloths are washed at 120 rpm and that the index of detergency was determined from the absorbance and reflectance of cloth before and after washing (Column 19, Lines 65+).

7. Claims 1-22 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,453,372 issued to Vetter et al. Vetter et al. disclose a method for determining the washing performance of proteases. Vetter et al. disclose that proteases are added to detergent (Column 23, Lines 27+). Vetter et al. disclose that test fabric stained with blood, milk and ink were used as the test fabric and that this test fabric was washed with the protease containing detergent in a rotating sample container (Column 23, Lines 24+). Vetter et al. disclose the washing efficiency of the proteases was determined by measuring the reflectance of the washed test fabric (Column 23, Lines 43+).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Benjamin et al in view of U.S. Patent 4,028,263 issued to Gray. The applicability of Benjamin et al. to the instant invention has been discussed above. Benjamin et al. discloses the measurement of the whiteness of the cloth samples. Benjamin et al. does not disclose measuring the fluorescence of the fabric test samples in order to measure brightness. However, determination of fluorescence to provide a measure of brightness is known in the art. Gray discloses washing coffee-tea stained swatches with detergent followed by determination of fluorescence in order to measure brightness (Column 11, Lines 45+). It would therefore have been obvious to one having ordinary skill in the art at the time of the invention to have similarly measured the brightness of the test swatch by determining fluorescence since both Benjamin et al. and Gray are directed to measuring the brightness of detergent washed fabric swatches.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mahreen Chaudhry whose telephone number is (703) 605-1200. The examiner can normally be reached on Monday – Friday (8:30-5:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jyothsna Venkat, can be reached at (703) 308-2439. The official fax phone number for the organization where this application is proceeding or assigned is (703) 308-4556 or 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

mc
March 28, 2002



RALPH GITOMER
PRIMARY EXAMINER
GROUP 1200